

MICHIGAN SUPREME COURT



Office of Public Information

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FOR IMMEDIATE RELEASE

PROPOSALS WOULD AMEND EVIDENCE RULE TO PERMIT ADMISSION OF PAST DOMESTIC VIOLENCE ACTS IN DOMESTIC VIOLENCE CASES; SUPREME COURT SEEKS PUBLIC COMMENT

LANSING, MI, July 16, 2003 – Prior acts of domestic violence could be used as evidence in prosecuting persons charged with that offense, under proposed changes to the Michigan Rules of Evidence released by the Michigan Supreme Court for public comment today.

The proposals stem from a report by the Task Force on Domestic Violence; the report may be viewed at <http://www.michigan.gov/posthumus/1,1431,7-104--2975--,00.html>. The Task Force's recommendations include amending Michigan Rule of Evidence (MRE) 404 so that courts may "admit evidence of a defendant's other acts of domestic violence with no precondition of finding a 'non-character' purpose for which it is relevant." The Task Force added that "Evidence of other acts of domestic violence (against any victim) for which the defendant has not previously been prosecuted or convicted should be allowed, as well as evidence of other domestic violence (against any victim) for which the defendant has been convicted."

MRE 404 currently provides that "Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith." The rule does allow admission of prior acts for other purposes than to prove character, such as to show motive or planning.

One proposed amendment to MRE 404 states that "In the prosecution of an offense involving domestic violence or interference with a report of an offense involving domestic violence, evidence of other acts involving domestic violence by the defendant against the same or another person or interference with a report of an offense involving domestic violence is admissible, unless found inadmissible under MRE 403." That version, according to a staff comment in the order, "is a synthesis of provisions from other states," including Alaska, California, and Minnesota.

The alternative amendment states that "In the prosecution of an offense involving domestic violence, evidence of other acts of domestic violence is admissible and may be considered for its bearing on any matter to which it is relevant." According to the staff comment,

the second version “tracks the language of Rules 413 and 414 of the Federal Rules of Evidence.”

The full text of the Supreme Court’s order may be viewed at
<http://www.courts.michigan.gov/supremecourt/Resources/Administrative/2001-51.pdf>.

Before publishing the proposed amendments to MRE 404, the Court consulted its Advisory Committee on the Rules of Evidence. The Committee’s report recommended against modifying the rule. Two Committee members dissented, offering separate modifications of MRE 404. The report and the dissents are available at
<http://www.courts.michigan.gov/supremecourt/resources/administrative/index.htm>.

The Supreme Court will hold a public hearing on whether to amend MRE 404 before the Court makes a final decision. The hearing has not yet been scheduled. The schedule and agendas for public hearings are posted on the Court’s website,
<http://www.courts.michigan.gov/supremecourt>.

In addition, interested persons may send comments to the Clerk of the Supreme Court in writing; the deadline for doing so is November 1, 2003. Comments may be e-mailed to MSC_clerk@courts.mi.gov; letters may be sent to P.O. Box 30052, Lansing, Michigan 48909. Please refer to **ADM File No. 2001-51** when submitting a comment. Comments will be posted at
<http://www.courts.michigan.gov/supremecourt/resources/administrative/index.htm>.

The work of the Task Force on Domestic Violence is also reflected in pending legislation. Senate Bill 232 and Senate Bill 233 can be found at these websites:
<http://www.michiganlegislature.org/law/mileg.asp?page=getObject&objName=2003-SB-0232&userid=>

<http://www.michiganlegislature.org/law/mileg.asp?page=getObject&objName=2003-SB-0233&userid=>

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